

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ANDREW CORZO, SIA HENRY, ALEXANDER LEO-GUERRA, MICHAEL MAERLENDER, BRANDON PIYEVSKY, BENJAMIN SHUMATE, BRITTANY TATIANA WEAVER, and CAMERON WILLIAMS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, CALIFORNIA INSTITUTE OF TECHNOLOGY, UNIVERSITY OF CHICAGO, THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, CORNELL UNIVERSITY, TRUSTEES OF DARTMOUTH COLLEGE, DUKE UNIVERSITY, EMORY UNIVERSITY, GEORGETOWN UNIVERSITY, THE JOHNS HOPKINS UNIVERSITY, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, NORTHWESTERN UNIVERSITY, UNIVERSITY OF NOTRE DAME DU LAC, THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA, WILLIAM MARSH RICE UNIVERSITY, VANDERBILT UNIVERSITY, and YALE UNIVERSITY,

Defendants.

Case No.: 1:22-cv-00125

Hon. Matthew F. Kennelly

**PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENTS WITH DEFENDANTS BROWN
UNIVERSITY, THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF
NEW YORK, DUKE UNIVERSITY, EMORY UNIVERSITY, AND YALE UNIVERSITY,
PROVISIONAL CERTIFICATION OF THE PROPOSED SETTLEMENT CLASS,
APPROVAL OF THE NOTICE PLAN, AND APPROVAL OF THE SCHEDULE FOR
COMPLETING THE SETTLEMENT PROCESS**

Plaintiffs Andrew Corzo, Sia Henry, Alexander Leo-Guerra, Michael Maerlender, Brandon Piyevsky, Benjamin Shumate, Brittany Tatiana Weaver, and Cameron Williams (collectively, “Plaintiffs”), on behalf of themselves and a proposed Settlement Class, hereby move for an order pursuant to Fed. R. Civ. P. 23:

1. Granting preliminary approval under Fed. R. Civ. P. 23(c)(2) and 23(e) of settlements between Plaintiffs and the proposed Settlement Class (defined below) with the following five Defendants: (i) Brown University (“Brown”); (ii) The Trustees of Columbia University in the City of New York (“Columbia”); (iii) Duke University (“Duke”); (iv) Emory University (“Emory”); and (v) Yale University (“Yale”). These five settling defendants are collectively referred to as the “Second Tranche Settling Universities” or “Second Tranche Settling Defendants;” these settlements are collectively referred to as the “Second Tranche Settlements;” and the executed settlement agreements for the Second Tranche Settling Defendants are collectively referred to as the “Settlement Agreements” (which are attached at Exhibits 1-5 to the January 23, 2024 joint declaration filed by Settlement Class Counsel in support of this motion (referred to as the “Jan. 23, 2024 Joint Decl.”)).

2. Granting Plaintiffs’ request to combine the approval process for the University of Chicago Settlement, which the Court preliminarily approved on September 9, 2023, with all five of the Second Tranche Settlements (collectively, the “Settlements” and “Settling Defendants” or “Settling Universities”).

3. Finding that the Court will likely determine that the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) will be satisfied for settlement and judgment purposes only, and thus provisionally certifying the Settlement Class as defined in the Settlement Agreements.

4. Conforming the class definition applicable to the University of Chicago Settlement Agreement to the class definitions applicable to the Second Tranche Settlements.

5. Appointing Andrew Corzo, Sia Henry, Alexander Leo-Guerra, Michael Maerlender, Brandon Piyevsky, Benjamin Shumate, Brittany Tatiana Weaver, and Cameron Williams as representatives of the Settlement Class (“Class Representatives”).

6. Appointing Freedman Normand Friedland LLP, Gilbert Litigators & Counselors PC, and Berger Montague PC as Settlement Class Counsel under Fed R. Civ. P. 23(g).

7. Approving the revised notice plan articulated in the declaration of Steven Weisbrot (attached hereto) and authorizing dissemination of notice to the Settlement Class. *See Declaration of Steven Weisbrot, Esq. of Angeion Group LLC re the Proposed Revised Notice Plan, Jan. 22, 2024* (the “Jan. 22, 2024 Weisbrot Decl.”); Revised Summary Notice, Ex. A to Jan. 22, 2024 Weisbrot Decl.; Revised Long-Form Notice, Ex. B to Jan. 22, 2024 Weisbrot Decl.

8. Preliminarily approving the January 23, 2024 Revised Plan of Allocation for Settlements with University of Chicago and the Five Additional Settling Defendants, attached as Exhibit 7 to the Jan. 23, 2024 Joint Decl.

9. Pursuant to 34 C.F.R. § 99.37(a), finding that mailing addresses and email addresses in education records of current students of a Defendant constitute “directory information” and may be disclosed, without consent, to the Settlement Claims Administrator for purposes of providing class notice in this litigation if (a) the Defendant has previously provided public notice that the mailing addresses and email addresses are considered “directory information” that may be disclosed to third parties including public notice of how students may restrict the disclosure of such information, and (b) the student has not exercised a right to block disclosure of current mailing addresses or email addresses (“FERPA Block”). Defendants shall

not disclose from education records mailing addresses or email addresses subject to a FERPA Block.

10. Pursuant to 34 C.F.R. § 99.37(b), finding that mailing addresses and email addresses in education records of former students of a Defendant constitute “directory information” and may be disclosed, without consent, to the Settlement Claims Administrator for purposes of providing class notice in this litigation, provided that each Defendant continues to honor any valid and un-rescinded FERPA Block.

11. Appointing Angeion Group (“Angeion”) as Settlement Claims Administrator. (The Court previously appointed Angeion as the Settlement Claims Administrator for the preliminarily approved settlement with the University of Chicago, *see* ECF No. 428, at ¶ 8.)

12. Appointing The Huntington National Bank (“Huntington Bank”) as Escrow Agent. (The Court previously appointed Huntington Bank as the Escrow Agent for the preliminarily approved settlement with the University of Chicago, *see* ECF No. 428, at ¶ 9.)

13. Approving the Custodian/Escrow Agreement for Second Tranche Settlements, dated Jan. 23, 2024 (the “Jan. 23, 2024 Escrow Agreement”), attached at Exhibit 6 to Jan. 23, 2024 Joint Decl., as governing the Second Tranche Settlements.

14. Approving the establishment of the Settlement Fund under the Settlement Agreements as a qualified settlement fund (“QSF”) pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

15. Staying of all litigation activity against the Settling Defendants on behalf of the Settlement Class pending final approval or termination of the Settlements.

16. Approving the proposed schedule for the Settlements, including setting a date for a final Fairness Hearing. As explained in Plaintiffs’ supporting memorandum of law, the

schedule has been revised to incorporate the settlement with the University of Chicago with all five of the Second Tranche Settlements on the same schedule for efficiency purposes and to avoid Class member confusion.

WHEREFORE, for the reasons set forth in the accompanying memorandum of law, supporting joint declaration of Settlement Class Counsel, the declaration of the proposed Settlement Claims Administrator, and all exhibits filed in support of this Motion, Plaintiffs respectfully request that the Court grant this motion and enter the Preliminary Approval Order filed herewith. The Settling Defendants do not oppose this motion.

Dated: January 23, 2024

Respectfully Submitted,

By: /s/ Robert D. Gilbert

Robert D. Gilbert
Elpidio Villarreal
Robert S. Raymar
David Copeland
Steven Magnusson
Natasha Zaslove
GILBERT LITIGATORS & COUNSELORS, P.C.
11 Broadway, Suite 615
New York, NY 10004
Phone: (646) 448-5269
rgilbert@gilbertlitigators.com
pdvillarreal@gilbertlitigators.com
rraymar@gilbertlitigators.com
dcopeland@gilbertlitigators.com
smagnusson@gilbertlitigators.com
nzaslove@gilbertlitigators.com

/s/ Eric Cramer

Eric L. Cramer
Caitlin G. Coslett
Ellen Noteware
David A. Langer
BERGER MONTAGUE PC
1818 Market Street, Suite 3600

/s/ Edward J. Normand

Devin "Vel" Freedman
Edward J. Normand
Peter Bach-y-Rita
Richard Cipolla
FREEDMAN NORMAND FRIEDLAND LLP
99 Park Avenue
Suite 1910
New York, NY 10016
Tel: 646-970-7513
vel@fnf.law
tnormand@fnf.law
pbachyrita@fnf.law
rcipolla@fnf.law

Daniel J. Walker

Robert E. Litan
Hope Brinn
BERGER MONTAGUE PC
2001 Pennsylvania Avenue, NW
Suite 300

Philadelphia, PA 19103
Tel: 215-875-3000
ecramer@bm.net
ccoslett@bm.net
enoteware@bm.net
dlanger@bm.net

Washington, DC 20006
Tel: 202-559-9745
rlitan@bm.net
dwalker@bm.net
hbrinn@bm.net

Richard Schwartz
BERGER MONTAGUE PC
1720 W Division
Chicago, IL 60622
Tel: 773-257-0255
rschwartz@bm.net

Counsel for Plaintiffs